

STATE OF MICHIGAN
IN THE SUPREME COURT

IN RE REQUEST FOR ADVISORY OPINION
REGARDING CONSTITUTIONALITY
OF 2005 PA 71.

Supreme Court No. 130589

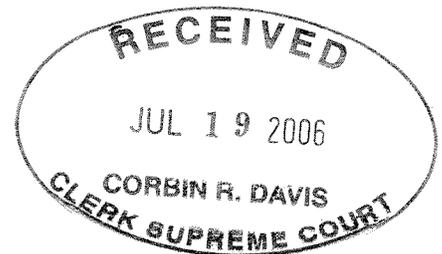
**MICHIGAN DEPARTMENT OF STATE'S AMICUS CURIAE BRIEF
IN SUPPORT OF CONSTITUTIONALITY OF 2005 PA 71**

Michael A. Cox
Attorney General

Thomas L. Casey (P24215)
Solicitor General
Counsel of Record

Patrick O'Brien (P27306)
Assistant Attorney General
Attorney for Michigan Department
of State, Bureau of Elections
525 W. Ottawa Street
P.O. Box 30212
Lansing, MI 48909
(517) 373-6434

Dated: July 19, 2006



This Court granted the request by the House of Representatives for an advisory opinion regarding the constitutionality of the photo identification requirements contained in section 523 of 2005 PA 71, MCL 168.523, and requested that the Attorney General submit separate briefs arguing both for and against the constitutionality of these requirements.¹ In its Order, this Court also "invited" the Michigan Department of State Bureau of Elections, along with other interested entities, to file amici curiae briefs in this matter.

The Department of State, in lieu of filing a separate brief, hereby incorporates and adopts as its own the brief filed by the Attorney General *in support of* the constitutionality of the photo identification requirements set forth in section 523. The Attorney General's brief adequately expresses the position of the Department of State with respect to the legal questions posed by this Court's grant of the advisory opinion request. The Department of State would, however, urge the Court not to order implementation of the photo identification requirements as set forth in section 523 of either 1996 PA 583 or 2005 PA 71 before the November 2006 general election due to other significant changes already being implemented this year by Michigan's election officials.

Under the federal Help America Voter Act of 2002 (HAVA), clerks are implementing two major requirements this year.² First, HAVA compliant optical scan equipment will be used in every precinct, many for the first time. Second, under HAVA, accessible voting devices are being deployed to provide voters with disabilities an opportunity to vote in private and independently, without the assistance of others. Both of these programs – in addition to other

¹ See *In re Request for an Advisory Opinion regarding Constitutionality of 2005 PA 71*, 474 Mich 1230; 712 NW2d 450 (2006).

² 42 USC 15301-15545.

HAVA requirements – have significantly increased the workload of local election officials. To impose any additional requirements during this election year would work an undue hardship on these officials.

Should the Court conclude that the photo identification requirements as set forth in section 523 are constitutional, and that there is a basis to order the enforcement of these requirements for the November 2006 general election, the Department requests that any such decision be rendered by September 1, 2006, in order to provide ample time to prepare for an orderly election.

The Department appreciates the opportunity to participate in this matter, and urges this Court to uphold the constitutionality of the photo identification requirements.

Respectfully submitted,

Michael A. Cox
Attorney General

Thomas L. Casey (P24215)
Solicitor General
Counsel of Record



Patrick O'Brien (P27306)
Assistant Attorney General
Attorney for Michigan Department
of State, Bureau of Elections
525 W. Ottawa Street
P.O. Box 30212
Lansing, MI 48909
(517) 373-6434

Date: July 19, 2006